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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,108

Applicant(s)

IGARASHI ET AL.

Examiner

SUNIT PANDYA

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

This action is in response to amendments filed on 2/4/09, wherein the examiner acknowledges that claims 1, 7, 8 & 9 have been amended, and no claims have been added or canceled. Claims 1-9 are currently pending in the instant application.

Claim Rejections - 35 USC § 103

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osamu et al. (EP 1145748 A2) in view of Negishi et al. (US Patent 6,571,278).

In regard to claim 1, with reference to Figure 1, Osamu et al. discloses the claimed invention including:

- Game apparatus [0001].
- Plural game data storage means [18 in Figure 1] and [line 3 of 0005].

Regarding to "means for plural data storage" is mentioned to be ROM cartridge in specification on page 8 of application, this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. Osamu et al. with reference to Figure 1, also discloses ROM Cartridge [12]. Osamu et al. is considered to be an equivalent to applicant's means for plural game data storage means because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification.

- Replication source determination means for determining replication source game data storage means among the plural game data storage means [lines 11-19 of 0005] and [0010]. Osamu et al. has mentioned two item exchange tables which include exchangeable items. In examiner view, one of these item exchange tables is source memory while the other is target memory because an item is taken from one table and stored in the other. Regarding the limitation "means for replication source determination" is mentioned [lines 3-7 on page 11 of application] to be a game program stored in the ROM cartridge 12 and executed by portable game machine. This limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112, 6th paragraph. Osamu et al., with reference to Figure 1, also discloses a portable game device, game program [0020] and ROM Cartridge [12]. Osamu et al. is considered to be an equivalent to applicant's replication source determination means because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification.

- Replication target determination means for determining replication target game data storage means among the plural game data storage means [lines 11-19 of 0005] and [0006]. In examiners view, one of these item exchange table is source memory while the other is target memory because an item is taken from one table and stored in the other. Regarding to "means for replication target determination" is mentioned to be game program in the ROM cartridge 12 and executed by portable game machine in lines 3-7 on page 11 of application, this limitation meets the three-prong test per MPEP 2181 and there by invokes 35 USC 112 6th paragraph. Osamu et al. with reference to

Figure 1, also discloses portable game device, game program [0020] and ROM Cartridge [12]. Osamu et al. is considered to be an equivalent to applicant's replication target determination means because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification.

- Replication means for storing game data into the replication target game data storage means [lines 1-7 of column 2]. Osamu et al. mentions storing an item in exchange to another item in game item storage means in aforementioned lines [see figure 1]. Regarding "means for replication", Osamu et al. has mentioned a game program in the ROM cartridge 12, which is executed by portable game machine in lines 3-7 on page 11 of application, this limitation meets the three-prong test per MPEP 2181 and there by invokes 35 USC 112 6th paragraph. Osamu et al. with reference to Figure 1, also discloses portable game device, game program [0020] and ROM Cartridge [12]. Osamu et al. is considered to be an equivalent to applicant's replication means because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification.

- Link data storage means to correlate two game data storage means with each other [lines 36-41 of column 6]. Regarding to "means for link data storage" is mentioned to be game program in the ROM cartridge 12 and executed by portable game machine in lines 3-7 on page 11 of application, this limitation meets the three-prong test per MPEP 2181 and there by invokes 35 USC 112 6th paragraph. Osamu et al. with reference to Figure 1, also discloses portable game device, game program

[0020] and ROM Cartridge [12 in Figure 1]. Osamu et al. is considered to be an equivalent to applicant's link data storage means because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant's specification.

- Each of the plural game data storage means stores original item data relating to an original item data relating to an original item and replica item data relating to a replica item [0005] and,

- Replication mean stores the game data into the replication target game data storage means, wherein the original items data and replication game data are stored without change [0004-0006, wherein Osamu et al. discloses allowing the storage medium to store all of the game data without initially modifying it], on the basis of the game data stored in the replication source game data storage means so that a sum of the number of original item relating to the original item data stored in the replication source game data storage means and the number of replica items relating to the replica item data stored in the replication source game data storage means become the number or replica items relating to the replica item data stored in the replication target game data storage means [lines 6-10 of column 4]. Osamu et al. discloses counting means to keep track of exchange items [lines 6-10 of column 4, wherein the counting means could have been also understood to keep count of number of copies relative to source game data storage means and thus used to keep count of sum of number of original item relating to the original item data stored in the replication source game data storage means and the number of replica items relating to the replica item data stored in

the replication source game data storage means become the number of replica items relating to the replica item data stored in the replication target game data storage means]. It also stores the link data to correlate the replication target game data storage means with the replication source game data storage means into the link data storage means [lines 36-41 of column 6]. However Osamu et al. fails to teach of storing both original item data and replica item data in the replication source game data storage means, so that the game can access both the original data and replica data in subsequent game play.

In an analogous art, Negishi et al. teaches of a data sharing system which helps to maintain replica consistency, teaches of storage means for storing both, original item data and replica item data in the replication source game data storage, such that both the original data and replica data can be accessed [lines 6-24 of column 5 & column 11-12]. It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Osamu et al. to include multiple data storage point for both original and replica data, as taught by Negishi et al., thus in this case, allowing a user to navigate back to original game play if desired or continue the previously modified game play.

In regard to claim 2, the combination of Osamu et al. and Negishi et al. teach of disposing an item stored in one of the plural game data storage means upon instruction, updating the original item data stored in the game data storage means whose disposal is instructed so that the number of original item is decreased lines 50-58 of column 8 of Osamu. The combination of Osamu et al. and Negishi et al. also teach of updating the

replica item data stored in another game data storage means relating to item data stored in another game data storage means relating to a replica item as a direct or indirect replica of the original item so that the number of replica item is decreased [column 6 of Nigishi et al.]

In regard to claim 3, combination of Osamu et al. and Negishi et al. teach of disposing an item stored in one of the plural game data storage means upon instruction, updating the original item data stored in the game data storage means whose disposal is instructed so that the number of original item is decreased lines 50- 58 of column 8 & Figure 4 of Osamu et al. The combination of Osamu et al. and Negishi et al. also teaches of a replica item relating to the replica item data stored in one of the plural game data storage means and updating the original data stored in one of other game data storage means as a direct or indirect replication source of the game data storage means whose disposal is instructed so that the original item is decreased and updating the replica item data stored in another game data storage means relating to replica item as a direct or indirect replica of the decreased original item so that the replica item is decreased [column 6 of Nigishi et al.]

In regard to claim 4, combination of Osamu et al. and Negishi et al. teach of disposing an item stored in one of the plural game data storage means upon instruction, updating the original item data stored in the game data storage means whose disposal is instructed so that the number of original item is decreased lines 50- 58 of column 8, and Figure 4 of Osamu et al. The combination of Osamu et al. and Negishi et al. also teach of updating of a replica item data stored in one of the game data storage means

as direct or indirect replication targets of the game data storage means whose deletion is instructed so that replica items, equal in number to the number of original items relating to the original item data stored in the game data storage means whose is instructed are changed or original items, changing link data, which is stored in the link data storage means and correlates the game data storage means whose deletion is instructed with the game data storage means as the replication target of the game data storage means, to link data to correlate the game data storage means as the replication target of the game data storage means whose deletion is instructed with said one of the game data storage means and deleting the game data storage means whose deletion is instructed. Correlation of game data storage means has also been disclosed in lines 36-41 of column 6 of Osamu et al.'s invention.

In regard to claim 5, Game apparatus, plural game data storage means and link data storage means have already been discussed about in rejection of claim 1. Osamu et al. teaches a game apparatus [0001] comprising plural game data storage means [18 in Figure 1] and [line 3 of 0005], Osamu et al. further discloses a link data storage means comprising of part of each of the plural game data storage means [lines 36-41 of column 6].

In regard to claim 6, game apparatus, plural game data storage means and link data storage means have already been discussed about in rejection of claim 1. Osamu et al., with reference to figure 1, teaches a game apparatus [0001] wherein the link data storage means [lines 36-41 of column 6] and the plural game data storage means are comprising of one or plural memories ([18 in Figure 1] and [line 3 of 0005]) and a

storage area relating to the link data storage means and a storage area relating to the plural game data storage means are separately provided in one or plural memories [lines 43-54 of column 2].

In regard to claim 7, all limitations of claim 7 have been addressed in rejection of claim 1 above except a program to cause a computer to function. Osamu et al. discloses information storage medium in lines 8-9 of column 1 and lines 25-29 of column 2. Osamu et al. also discloses game program [lines 7-9 of column 5 and lines 37-41 of column 9] that meets all the limitation of this claim as discussed above.

In regard to claim 8, all limitations of claim 8 have been addressed in rejection of claim 1 above except a control method of a game apparatus. A game program [lines 7-9 of column 5 and lines 37-41 of column 9] inherently has a control method. Osamu et al. also discloses a control method [line 8 of column 1] that meets all the limitations of this claim as discussed above.

In regard to claim 9, all limitations of claim 9 have been addressed in rejections of claims 1, 7 and 10 except a program delivery apparatus comprising an information storage medium storing a game program. Osamu et al. has a program delivery apparatus for it also has the method of exchanging items, using communication [lines 3-9 of column 5].

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

The examiner would like to point out that in the rejection above, the examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-Th 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES S. MCCLELLAN/
Primary Examiner, Art Unit 3714

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